

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOSE AMADO GARCIA,

Plaintiff,

-against-

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 3/19/2024
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22-CV-6216 (BCM)

ORDER

BARBARA MOSES, United States Magistrate Judge

Plaintiff Jose Amado Garcia filed this action pursuant to § 205(g) of the Social Security Act, 42 U.S.C. § 405(g), seeking judicial review of a final decision of the Commissioner of Social Security denying his applications for disability insurance benefits and supplemental security income. The case is before me for all purposes pursuant to 28 U.S.C. § 636(c).

The Court has carefully reviewed the record, the briefs, and applicable law; heard oral argument from the parties on March 19, 2024; announced its decision on the record at the conclusion of the argument (the Oral Decision); and directed the parties to order a copy of the transcript and split the costs.

For the reasons detailed in the Oral Decision, the Court has determined that the Administrative Law Judge (ALJ) failed to consider all of the medical evidence in the record, including Dr. Desir's treatment notes; erred at Step 3 in failing to conduct any "paragraph C" analysis when considering the Listings corresponding to plaintiff's mental impairment, based on a mischaracterization of the record; and violated the treating physician rule, which applies to this action, when he gave "no weight" to the opinions of plaintiff's treating psychiatrist, Dr. Desir, without providing good reasons therefor, while giving "great weight" to the earlier opinions of two state agency psychiatric reviewers who did not examine the plaintiff or have access to his complete

mental health records. The Court has further determined that these errors were not harmless. Consequently, plaintiff's motion for judgment on the pleadings (Dkt. 18) is GRANTED; the Commissioner's cross motion for judgment on the pleadings (Dkt. 24) is DENIED; and the case is REMANDED, pursuant to 42 U.S.C. § 405(g), for further proceedings consistent with the Oral Decision. On remand, the ALJ should do the following:

- (1) Consider the entire record, including Dr. Desir's treating notes;
- (2) Conduct a paragraph C analysis at Step 3;
- (3) Reconsider the weight given to each medical opinion in accordance with the treating physician rule, and, if the ALJ again discounts Dr. Desir's opinion, provide good reasons therefor; and
- (4) Reconsider plaintiff's residual functional capacity in light of all of the record evidence, including properly weighted opinion testimony.

The ALJ should also update the record, if more recent medical evidence is available.

The Clerk of Court is respectfully directed to close the case.

Dated: New York, New York
March 19, 2024

SO ORDERED.



BARBARA MOSES
United States Magistrate Judge